

B.C.D. 11-84

August 8, 2011

EMPLOYER STATUS DETERMINATION

Conecuh Valley Railroad Company, Inc.

This is the determination of the Railroad Retirement Board concerning the continuing status of Conecuh Valley Railroad Company, Inc. (COEH) (B.A. No. 5585) as an employer under the Railroad Retirement Act (45 U.S.C. § 231 et seq.) (RRA) and the Railroad Unemployment Insurance Act (45 U.S.C. § 351, et seq.) (RUIA).

Information about COEH was provided by Mr. Scott G. Williams, President of RailAmerica Transportation Corp. (RTC). According to Mr. Williams, on May 11, 2011, RTC, a subsidiary of RailAmerica, Inc., acquired assets of three railroads, Three Notch Railroad Company, Inc. (TNHR), Wiregrass Central Railroad Company, Inc. (WGCR), and the Conecuh Valley Railroad Company, Inc. (COEH), from affiliated companies of Gulf & Ohio Railways, Inc. (G & O). Mr. Williams further explained that new limited liability companies were formed to own the assets and to operate the lines. In Surface Transportation Board (STB) Finance Docket No. 35487, one of those newly formed limited liability companies, Conecuh Valley Railway, LLC (CVR), filed a verified notice of exemption to acquire and operate approximately 15.04 miles of rail line from COEH. Additional information was submitted by Ms. Ellen Oblow of G & O, to the agency's Audit & Compliance Division via facsimile on June 22, 2011. According to this information, COEH ceased operations on May 11, 2011, and employees were last compensated on June 7, 2011. The track, locomotives, and other operating equipment were all sold to TRC. At the time of the sale, all three of COEH's employees were terminated; RailAmerica had plans to hire one of the employees. The corporate entity of COEH was not dissolved.

Section 202.11 of the Board's regulations provides that:

The employer status of any company or person shall terminate whenever such company or person loses any of the characteristics essential to the existence of an employer status.

Based on the information set forth above, it is clear that the character of COEH as a railroad no longer exists inasmuch as all of its railroad assets have been sold and it has no employees. Therefore, it is the determination of the Railroad Retirement Board that Conecuh Valley Railroad Company, Inc. ceased being an employer under the RRA and RUIA on May 11, 2011, the date its assets were acquired by RailAmerica Transportation Corp.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board